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EXAMINER

HICKS, CHARLES N

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2623

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/539,988

**Applicant(s)**

AALTONEN, JANNE

**Examiner**

CHARLES N. HICKS

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 33-54 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 33-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wachtfogel (US 2008/0127251 A1), hereinafter referred to as Wachtfogel, in view of Hallford (US Patent No. 7,185,352 B2), hereinafter referred to as Hallford.

4. Regarding claim 33, Wachtfogel discloses a method of gathering information relating to consumption of broadcast content, the method comprising:

adding to said description an instruction to notify a given party of one of the group comprising intended reception of said content and consumption of said content **(fig. 1-6, pg. 11, paragraphs 165-167);**

and transmitting said description **(fig. 1-6, pg. 11, paragraph 168).**

However Wachtfogel fails to disclose preparing a description of broadcast content. Halford discloses preparing a description of broadcast content **(fig. 4-5, col. 8, lines 1-35)**. Motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the broadcast. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.

5. Regarding claim 34, Wachtfogel discloses a method comprising:

preparing a schedule for broadcasting content **(fig. 1-5, pg. 11, paragraphs 163-164);**

and including said description in the schedule; wherein transmitting said description comprises transmitting said schedule **(fig. 1-6, pg. 11, paragraphs 164-166).**

6. Regarding claim 35, Wachtfogel discloses a method comprising adding to said description an instruction to notify said given party of intended continued reception of said content (**fig. 1-6, pg. 11, paragraphs 163-165**).
7. Regarding claim 36, Wachtfogel discloses a method comprising adding to said description an instruction to notify said given party of intended cessation of reception of content (**fig. 1-6, pg. 11, paragraphs 163-165**).
8. Regarding claim 37, Hallford discloses a method comprising broadcasting said content in response to a receiving station notifying said given party that it intends to receive said content (**fig. 4, col. 7, lines 35-68**).
9. Regarding claim 38, Hallford discloses a method comprising receiving notifications from receiving stations (**fig. 4, col. 7, lines 35-68**).
10. Regarding claim 39, Wachtfogel discloses a method comprising counting a number of receiving stations which notify said given party that they intend to receive said content (**fig. 1-2, pg. 8, paragraphs 120-121**).
11. Regarding claim 40, Wachtfogel disclose a method comprising counting a number of receiving stations which notify said given party that they are receiving said content (**fig. 1-2, pg. 8, paragraphs 120-121**).

12. Regarding claim 41, Wachtfogel discloses a method comprising preparing said description of said content according to the Session Description Protocol (**fig. 1-3, pg. 11, paragraphs 166-167**).

13. Regarding claim 42, Wachtfogel discloses a method further comprising identifying a region from which said notification is received and transmitting said item of service in said region (**fig. 1-3, pg. 11, paragraphs 167-168**).

14. Regarding claim 43, Wachtfogel discloses a method further comprising identifying a region from which a notification is received and broadcasting said content in said region (**fig. 1-3, pg. 11, paragraphs 168-169**).

15. Regarding claim 44, Wachtfogel discloses a method further comprising identifying a region from which no notification is received and not broadcasting said content in said region (**fig. 1-3, pg. 11, paragraphs 167-169**).

16. Regarding claim 45, Wachtfogel discloses a method comprising:  
determining whether an instruction has been added to said description, said instruction being to notify a given party of one of the group comprising intended reception of said content and consumption of the said content (**fig. 1-3, pg. 11, paragraphs 167-169**);

and in response to determining that said instruction is added to said description, transmitting, to said given party, a notification of intended reception of said content (**fig. 1-3, pg. 11, paragraphs 167-169**).

However Herz fails to disclose receiving a description of broadcast content. Hallford discloses receiving a description of broadcast content (**fig. 4-5, col. 8, lines 1-35**). Motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the broadcast. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.

17. Regarding claim 46, Wachtfogel discloses a method comprising: receiving a schedule of broadcasting content, said schedule including the description of said content (**fig. 1-3, pg. 11, paragraphs 165-169**).

18. Regarding claim 47, Wachtfogel discloses a method comprising: receiving said content (**fig. 1-3, pg. 12, paragraphs 172-173**).

19. Regarding claim 48, Wachtfogel discloses a method further comprising: transmitting, to said given party, a notification of intended continued reception of said content (**fig. 1-3, pg. 11, paragraphs 164-165** *wherein engagement of the smart card used at the remote user unit notifies the broadcaster or continued viewing*).

20. Regarding claim 49, Wachtfogel discloses a method further comprising:  
transmitting, to said given party, a notification of intended cessation of reception of said content (**fig. 1-3, pg. 11, paragraphs 164-165 wherein disengagement of the smart card at the remote user unit notifies the broadcaster of discontinued viewing**).

21. Regarding claim 50, Wachtfogel discloses a method comprising:  
counting a number of notifications of intended reception of broadcast content received from receiving stations located in said predetermined region and if said number of notifications equals or exceeds a predetermined number, broadcasting said content in said predetermined region (**fig. 1-3, pg. 4, paragraph 67**).

22. Regarding claim 51, Wachtfogel discloses a method further comprising:  
adding to said description an instruction to notify a given party of intended reception of said content (**fig. 1-3, pg. 11, paragraphs 167-168**);  
and transmitting said description to a plurality of receiving stations (**fig. 1-3, pg. 11, paragraphs 167-168**).

However Wachtfogel fails to disclose preparing a description of broadcast content. Hallford discloses preparing a description of broadcast content (**fig. 4-5, col. 8, lines 1-25**). Motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the broadcast. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.



23. Regarding claim 52, Wachtfogel discloses a method further comprising: if said number of notifications falls below said predetermined number, stopping broadcast of said content in said predetermined region (**fig. 1-3, pg. 4, paragraph 67**).

24. Regarding claim 53, Wachtfogel discloses a computer readable medium storing a computer program comprising instructions which, when executed by data processing apparatus, causes said data processing apparatus to perform the method (**fig. 1-6, pg. 11, paragraphs 166-168**).

25. Regarding claim 54, Wachtfogel discloses an apparatus comprising:  
adding to said description an instruction to notify a given party of one of a group comprising intended reception of said content and consumption of said content (**fig. 1-6, pg. 11, paragraph 165-167**);

and a transmitter for transmitting said description to a plurality of receiving stations (**fig. 1-6, pg. 11, paragraph 168**).

However Wachtfogel fails to disclose a processor configured to prepare a description of the content. Hallford discloses a processor configured to prepare a description of the content (**fig. 3-5, col. 8, lines 1-25**). Motivation to combine the references is due to the fact that each reference combines and gathers information provided in a broadcast stream from clients that receive the broadcast. The invention would have been obvious to one of ordinary skill in the art at the time of the invention.

***Claim Rejections - 35 USC § 102***

26. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

27. Claims 55-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Wachtfogel.

28. Regarding claim 55, Wachtfogel discloses an apparatus comprising:

a receiver configured to receive, from a receiving station, a notification of intended reception of broadcast content (**fig. 1-3, pg. 7, paragraphs 111-113**);

a processor configured to determine whether said notification is received from a receiving station located in said predetermined region and a transmitter configured to instruct a network element to route said content to a base station for transmission in said predetermined region (**fig. 1-3, pg. 11, paragraphs 167-169**).

29. Regarding claim 56, Wachtfogel discloses a apparatus comprising:

a receiver configured to receive a description of broadcast content (**fig. 1-3, pg. 11, paragraph 167**);

a processor configured to determine whether an instruction has been added to said description, said instruction being to notify a given party of one of a group

comprising intended reception of said content and consumption of said content (**fig. 1-3, pg. 11, paragraphs 167-169**);

and a transmitter configured to transmit, to said given party, a notification of intended reception of said content in response to said instruction being added to said description (**fig. 1-3, pg. 12, paragraphs 177-178**).

30. Regarding claim 57, Wachtfogel discloses a computer-readable storage medium having stored thereon a data structure, comprising at least a schedule data for broadcasting content, the schedule data being organized to include at least partly an instruction to notify a given party of consumption of content (**fig. 1-3, pg. 11, paragraphs 167-169**).

31. Regarding claim 58, Wachtfogel discloses a method comprising transmitting said description to a plurality of receiving stations (**fig. 1-5, pg. 11, paragraphs 166-169**)

32. Regarding claim 59, Wachtfogel discloses an apparatus wherein the processor is configured to prepare a schedule for broadcasting content and to include said description in the schedule and the transmitter is configured to transmit said schedule (**fig. 1-3, pg. 11, paragraphs 165-169**)

33. Regarding claim 60, Wachtfogel discloses an apparatus wherein the processor is configured to add to said description an instruction to notify said given party of intended

continued reception of said content (**fig. 1-3, pg. 11, paragraphs 164-165** *wherein engagement of the smart card used at the remote user unit notifies the broadcaster of continued viewing*).

34. Regarding claim 61, Wachtfogel discloses an apparatus wherein the processor is configured to add to said description an instruction to notify said given party of intended cessation of reception of content (**fig. 1-3, pg. 11, paragraphs 164-165** *wherein disengagement of the smart card at the remote user unit notifies the broadcaster of discontinued viewing*).

35. Regarding claim 62, Wachtfogel discloses an apparatus wherein the processor is configured to prepare said description of said content according to the Session Description Protocol (**fig. 1-3, pg. 11, paragraphs 166-167**).

36. Regarding claim 63, Wachtfogel discloses an apparatus wherein the receiver is configured to receive a schedule of broadcasting content, said schedule including the description of said content (**fig. 1-3, pg. 11, paragraphs 165-169**).

37. Regarding claim 64, Wachtfogel discloses an apparatus wherein the receiver is configured to receive said content (**fig. 1-3, pg. 10, paragraphs 153-154**).

38. Regarding claim 65, Wachtfogel discloses an apparatus wherein the transmitter is configured to transmit, to said given party, a notification of intended continued reception of said content (**fig. 1-3, pg. 11, paragraphs 164-165** *wherein engagement of the smart card used at the remote user unit notifies the broadcaster of continued viewing*).

39. Regarding claim 66, Wachtfogel discloses an apparatus wherein the transmitter is configured to transmit, to said given party, a notification of intended cessation of reception of said content (**fig. 1-3, pg. 11, paragraphs 164-165** *wherein disengagement of the smart card at the remote user unit notifies the broadcaster of discontinued viewing*)..

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES N. HICKS whose telephone number is (571)270-3010. The examiner can normally be reached on M-F 7:30AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2623

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